

Senate Study Bill 1004

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE
DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act allowing a competent adult to execute a written instrument
2 directing the final disposition of that person's remains.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1038DP 82
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1 1 Section 1. NEW SECTION. 144C.1 SHORT TITLE.
1 2 This chapter may be cited as the "Final Disposition
1 3 Directives Act".
1 4 Sec. 2. NEW SECTION. 144C.2 LEGISLATIVE FINDINGS ==
1 5 CONSTRUCTION.
1 6 1. The general assembly finds and declares the following:
1 7 a. A competent adult should have the right and power to
1 8 direct the final disposition of the adult's remains and should
1 9 be protected from the actions of interested persons who may
1 10 try to impose their wishes regarding such final disposition
1 11 contrary to the adult's desires.
1 12 b. A statute is necessary to establish the priority of
1 13 interested persons to direct the final disposition of an
1 14 adult's remains if the decedent failed to do so or if a
1 15 dispute arises between interested persons regarding such final
1 16 disposition.
1 17 c. The right of a competent adult to direct the final
1 18 disposition of the adult's remains should be exercised by the
1 19 adult in a written declaration to protect a third party who
1 20 relies in good faith on the directives in the declaration from
1 21 liability.
1 22 2. This chapter shall be interpreted liberally to carry
1 23 out a decedent's intent when not in conflict with this
1 24 chapter.
1 25 3. This chapter shall not be construed to do any of the
1 26 following:
1 27 a. Supersede the provisions of section 135.144.
1 28 b. Invalidate a declaration or will, codicil, trust, power
1 29 of appointment, or power of attorney, subject to the
1 30 provisions of section 144C.4, subsection 3.
1 31 c. Invalidate any act of an agent, guardian, or
1 32 conservator.
1 33 d. Affect any claim, right, or remedy that accrued prior
1 34 to the effective date of this Act.
1 35 e. Authorize or encourage acts that violate the
2 1 constitution, statutes, rules, case law, or public policy of
2 2 Iowa or the United States.
2 3 f. Abridge contracts.
2 4 g. Modify the standards, ethics, or protocols of the
2 5 practice of medicine or mortuary science.
2 6 h. Compel or authorize a health care provider, hospital,
2 7 health care facility, elder group home, assisted living
2 8 program facility, adult day services program, or licensed
2 9 hospice program to administer medical treatment that is
2 10 medically inappropriate or contrary to laws of Iowa or the
2 11 United States.
2 12 i. Permit or authorize euthanasia or an affirmative or
2 13 deliberate act to end a person's life.
2 14 Sec. 3. NEW SECTION. 144C.3 DEFINITIONS.
2 15 As used in this chapter, unless the context otherwise
2 16 requires:
2 17 1. "Adult" means a person who is married or who is
2 18 eighteen years of age or older.

2 19 2. "Adult day services program" means adult day services
2 20 program as defined in section 231D.1.
2 21 3. "Assisted living program facility" means assisted
2 22 living program facility as defined in section 231C.2.
2 23 4. "Ceremony" means a formal act or set of formal acts
2 24 established by custom or authority to commemorate a decedent.
2 25 5. "Child" means a son or daughter of a parent, whether by
2 26 birth or adoption.
2 27 6. "Decedent" means a deceased adult.
2 28 7. "Declarant" means a competent adult who executes a
2 29 declaration pursuant to this chapter.
2 30 8. "Declaration" means a written instrument, executed by a
2 31 declarant in accordance with the requirements of this chapter,
2 32 that names a designee and may direct the final disposition of
2 33 the declarant's remains and the ceremonies planned after the
2 34 declarant's death.
2 35 9. "Designee" means a competent adult designated under a
3 1 declaration to implement the declarant's wishes contained in
3 2 the declaration.
3 3 10. "Elder group home" means elder group home as defined
3 4 in section 231B.1.
3 5 11. "Final disposition" means the burial, interment,
3 6 cremation, removal from the state, or other disposition of
3 7 remains.
3 8 12. "Health care facility" means health care facility as
3 9 defined in section 135C.1.
3 10 13. "Health care provider" means health care provider as
3 11 defined in section 144A.2.
3 12 14. "Hospital" means hospital as defined in section
3 13 135B.1.
3 14 15. "Interested person" means a decedent's spouse, parent,
3 15 grandparent, adult child, adult sibling, adult grandchild, or
3 16 a designee.
3 17 16. "Licensed hospice program" means a licensed hospice
3 18 program as defined in section 135J.1.
3 19 17. "Reasonable under the circumstances", as applied to
3 20 implementation of a declarant's directives in a declaration,
3 21 means consideration of what is appropriate in relation to the
3 22 declarant's finances, cultural or family customs, and
3 23 religious or spiritual beliefs. "Reasonable under the
3 24 circumstances" may include but is not limited to consideration
3 25 of the declarant's preneed funeral, burial, or cremation plan,
3 26 and known or reasonably ascertainable creditors of the
3 27 declarant.
3 28 18. "Remains" means the body or cremated remains of a
3 29 decedent.
3 30 19. a. "Third party" means a person who is any of the
3 31 following:
3 32 (1) Is requested in a declaration to act in good faith in
3 33 reliance upon the declaration.
3 34 (2) Is requested to dispose of remains by an adult with
3 35 the right to dispose of a decedent's remains under section
4 1 144C.6.
4 2 (3) Is delegated discretion in a declaration to direct
4 3 final disposition of a declarant's remains or to make
4 4 arrangements for the performance of ceremonies after a
4 5 declarant's death.
4 6 b. "Third party" includes but is not limited to a funeral
4 7 director, funeral establishment, cremation establishment, or
4 8 cemetery.
4 9 Sec. 4. NEW SECTION. 144C.4 DECLARATION == FINAL
4 10 DISPOSITION OF REMAINS.
4 11 1. A declaration shall name a designee and may include one
4 12 or more of the following directives:
4 13 a. What final disposition shall be made of the declarant's
4 14 remains.
4 15 b. What ceremony shall be performed after the declarant's
4 16 death.
4 17 2. A designee or a third party shall act in good faith to
4 18 fulfill the directives of a declaration in a manner that is
4 19 reasonable under the circumstances.
4 20 3. A funeral director, funeral establishment, cremation
4 21 establishment, cemetery, elder group home, assisted living
4 22 program facility, adult day services program, licensed hospice
4 23 program, or attorney, or any agent, owner, or employee of such
4 24 an entity, shall not serve as a designee unless related to the
4 25 declarant within the third degree of consanguinity.
4 26 Sec. 5. NEW SECTION. 144C.5 RELIANCE == IMMUNITIES.
4 27 1. A designee or third party who relies in good faith on a
4 28 declaration is not subject to civil liability or to criminal
4 29 prosecution or professional disciplinary action, to any

4 30 greater extent than if the designee or third party dealt
4 31 directly with the declarant as a fully competent and living
4 32 person.

4 33 2. A designee or third party who relies in good faith on a
4 34 declaration may presume, in the absence of actual knowledge to
4 35 the contrary, all of the following:

5 1 a. That the declaration was validly executed.
5 2 b. That the declarant was competent at the time the
5 3 declaration was executed.

5 4 3. A third party who relies in good faith on a declaration
5 5 is not subject to civil or criminal liability for the proper
5 6 application of property delivered or surrendered in compliance
5 7 with directives contained in the declaration including but not
5 8 limited to trust funds held pursuant to chapter 523A.

5 9 4. A third party who has reasonable cause to question the
5 10 authenticity or validity of a declaration may promptly and
5 11 reasonably seek additional information from the person
5 12 proffering the declaration or from other persons to verify the
5 13 declaration.

5 14 5. This section shall not be construed to impair any
5 15 contractual obligations of a designee or third party incurred
5 16 in fulfillment of a declaration.

5 17 Sec. 6. NEW SECTION. 144C.6 FINAL DISPOSITION OF REMAINS
5 18 == RIGHT TO CONTROL.

5 19 1. The right to control final disposition of a decedent's
5 20 remains or to make arrangements for the ceremony after a
5 21 decedent's death vests in and devolves upon the following
5 22 persons who are competent adults at the time of the decedent's
5 23 death, in the following order:

5 24 a. A designee acting pursuant to the decedent's
5 25 declaration.

5 26 b. The surviving spouse of the decedent, if not legally
5 27 separated from the decedent, whose whereabouts is reasonably
5 28 ascertainable.

5 29 c. A surviving adult child of the decedent, or, if there
5 30 is more than one, a majority of the surviving adult children
5 31 whose whereabouts are reasonably ascertainable.

5 32 d. The surviving parents of the decedent whose whereabouts
5 33 are reasonably ascertainable.

5 34 e. A surviving adult grandchild of the decedent, or, if
5 35 there is more than one, a majority of the surviving adult
6 1 grandchildren whose whereabouts are reasonably ascertainable.

6 2 f. A surviving adult sibling of the decedent, or, if there
6 3 is more than one, a majority of the surviving adult siblings
6 4 whose whereabouts are reasonably ascertainable.

6 5 g. A surviving grandparent of the decedent, or, if there
6 6 is more than one, a majority of the surviving grandparents
6 7 whose whereabouts are reasonably ascertainable.

6 8 h. An adult person in the next degree of kinship to the
6 9 decedent in the order named by law to inherit the estate of
6 10 the decedent under the rules of inheritance for intestate
6 11 succession or, if there is more than one, a majority of such
6 12 surviving persons whose whereabouts are reasonably
6 13 ascertainable.

6 14 i. A person who represents that the person knows the
6 15 identity of the decedent and who signs an affidavit warranting
6 16 the identity of the decedent and assuming the right to control
6 17 final disposition of the decedent's remains and the
6 18 responsibility to pay any expense attendant to such final
6 19 disposition. A person who warrants the identity of the
6 20 decedent pursuant to this paragraph is liable for all damages
6 21 that result, directly or indirectly, from that warrant.

6 22 j. The county medical examiner, if responsible for the
6 23 decedent's remains, or, if there is no county medical
6 24 examiner, the state medical examiner, if responsible for the
6 25 decedent's remains.

6 26 2. A third party may rely upon the directives of a person
6 27 who represents that the person is a member of a class of
6 28 persons described in subsection 1, paragraph "c", "e", "f",
6 29 "g", or "h", and who signs an affidavit stating that all other
6 30 members of the class, whose whereabouts are reasonably
6 31 ascertainable, have been notified of the decedent's death and
6 32 the person has received the assent of a majority of those
6 33 members of that class of persons to control final disposition
6 34 of the decedent's remains and to make arrangements for the
6 35 performance of a ceremony for the decedent.

7 1 3. A third party may await a court order before proceeding
7 2 with final disposition of a decedent's remains or arrangements
7 3 for the performance of a ceremony for a decedent if the third
7 4 party is aware of a dispute among persons who are members of
7 5 the same class of persons described in subsection 1, or of a

7 6 dispute between persons who are authorized under subsection 1
7 7 and the executor named in a decedent's will or a personal
7 8 representative appointed by the court.

7 9 4. If a declaration is contained in a will, the designee
7 10 may immediately implement the declaration without probate. If
7 11 a will that contains a declaration is not probated or is
7 12 declared invalid for testamentary purposes, the acts of the
7 13 designee in reliance on the declaration are valid to the
7 14 extent that the designee acted in good faith.

7 15 Sec. 7. NEW SECTION. 144C.7 DECLARATION OF FINAL
7 16 DISPOSITION OF REMAINS == FORM == REQUIREMENTS.

7 17 1. A declaration executed pursuant to this chapter may,
7 18 but need not, be in the following form:

7 19 I hereby designate as my designee to
7 20 implement my wishes relating to the final disposition of my
7 21 remains and the ceremonies to be performed after my death.
7 22 This declaration hereby revokes all prior declarations or
7 23 other documents directing final disposition of my remains and
7 24 the ceremonies to be performed after my death. This
7 25 designation becomes effective upon my death.

7 26 My designee shall act consistently with my directives as
7 27 stated in this declaration, in a manner that is reasonable
7 28 under the circumstances. My designee has the discretion to
7 29 determine when my directives are impossible or are not lawful,
7 30 practical, or financially feasible. My directives are:

7 31 _____
7 32 _____
7 33 _____
7 34 _____

7 35 I may revoke or amend this declaration at any time. I
8 1 agree that a third party (such as a funeral or cremation
8 2 establishment, funeral director, or cemetery) who receives a
8 3 copy of this declaration may act in reliance on it.
8 4 Revocation of this declaration is not effective as to a third
8 5 party until the third party receives notice of the revocation.
8 6 My estate shall indemnify my designee and any third party for
8 7 costs incurred by them or claims arising against them as a
8 8 result of their good faith reliance on this declaration.

8 9 I execute this declaration as my free and voluntary act.

8 10 2. A declaration executed pursuant to this chapter shall
8 11 be in a written form that substantially complies with the form
8 12 contained in subsection 1, is properly completed, and is dated
8 13 and signed by the declarant or another person acting on the
8 14 declarant's behalf at the direction of and in the presence of
8 15 the declarant. In addition, a declaration shall be either of
8 16 the following:

8 17 a. Signed by at least two individuals who are not named
8 18 therein and who, in the presence of each other and the
8 19 declarant, witnessed the signing of the declaration by the
8 20 declarant, or another person acting on the declarant's behalf
8 21 at the direction of and in the presence of the declarant, and
8 22 witnessed the signing of the declaration by each other.

8 23 b. Acknowledged before a notarial officer.

8 24 3. A declaration may include specific directives,
8 25 including but not limited to:

8 26 a. Special instructions conveying the declarant's wishes
8 27 for the type of final disposition of the declarant's remains,
8 28 location of the final disposition, type of ceremony, location
8 29 of ceremony, and organ donation consistent with chapter 142C.

8 30 b. Designation of one or more alternate designees.

8 31 c. Contact information of designees and alternate
8 32 designees such as names, addresses, and telephone numbers.

8 33 d. Instructions for distribution of copies of the
8 34 declaration.

8 35 Sec. 8. NEW SECTION. 144C.8 REVOCATION OF DECLARATION.

9 1 1. A declaration or any directive contained in a
9 2 declaration is revocable by a declarant in writing.

9 3 2. Unless otherwise expressly provided in a declaration:

9 4 a. A dissolution of marriage, annulment of marriage, or
9 5 legal separation between the declarant and the declarant's
9 6 spouse that occurs subsequent to the execution of the
9 7 declaration constitutes an automatic revocation of the spouse
9 8 as a designee.

9 9 b. A designation of a person as a designee pursuant to a
9 10 declaration is ineffective if the designation is revoked by
9 11 the declarant in writing subsequent to the execution of the
9 12 declaration or if the designee is unable or unwilling to serve
9 13 as the designee.

9 14 Sec. 9. NEW SECTION. 144C.9 FORFEITURE OF DESIGNEE'S
9 15 AUTHORITY.

9 16 A designee shall forfeit all rights and authority under a

9 17 declaration and all rights and authority under the declaration
9 18 shall vest in and devolve upon an alternate designee, or if
9 19 there is none vest in and devolve pursuant to section 144C.6,
9 20 under either of the following circumstances:

9 21 1. The designee is charged with murder in the first or
9 22 second degree or voluntary manslaughter in connection with the
9 23 declarant's death and those charges are known to a third
9 24 party, provided that if the charges against the designee are
9 25 dismissed or the designee is acquitted of the crime charged,
9 26 the authority of the designee under the declaration shall be
9 27 reinstated.

9 28 2. The designee does not exercise the designee's authority
9 29 under the declaration within two days of receiving
9 30 notification of the death of the declarant or within five days
9 31 of the declarant's death, whichever is earlier.

9 32 Sec. 10. NEW SECTION. 144C.10 INTERSTATE EFFECT OF
9 33 DECLARATION.

9 34 Unless otherwise expressly provided in a declaration:

9 35 1. It is presumed that the declarant intended to have a
10 1 declaration executed pursuant to this chapter have the full
10 2 force and effect of law in any state of the United States, the
10 3 District of Columbia, and any other territorial possessions of
10 4 the United States.

10 5 2. A declaration or similar instrument executed in another
10 6 state that complies with the requirements of this chapter may
10 7 be relied upon, in good faith, by a third party in this state
10 8 so long as a directive of the declarant is not invalid,
10 9 illegal, or unconstitutional in this state.

10 10 Sec. 11. NEW SECTION. 144C.11 EFFECT OF DECLARATION.

10 11 1. The designee designated in a declaration shall have the
10 12 sole discretion pursuant to the declaration to determine what
10 13 final disposition of the declarant's remains and ceremonies to
10 14 be performed after the declarant's death are reasonable under
10 15 the circumstances.

10 16 2. The provisions of the most recent declaration executed
10 17 by a declarant shall control over any other document
10 18 concerning final disposition of the declarant's remains and
10 19 the ceremony to be performed after the declarant's death.

10 20 3. This chapter applies to a declaration executed or
10 21 exercised in Iowa and to a declaration executed or exercised
10 22 by a person who is a resident of Iowa when the instrument is
10 23 executed or exercised.

10 24 4. This chapter does not prohibit an interested person
10 25 from viewing a declarant in private, at the interested
10 26 person's expense, to assist in the bereavement process, unless
10 27 such a viewing is specifically prohibited in the declaration.

10 28 5. This chapter does not prohibit a person from conducting
10 29 a separate ceremony to commemorate a declarant, at the
10 30 person's expense, to assist in the bereavement process.

10 31 6. The rights of a donee created by an anatomical gift
10 32 pursuant to section 142C.11 are superior to the authority of a
10 33 designee under a declaration executed pursuant to this
10 34 chapter.

10 35 Sec. 12. NEW SECTION. 144C.12 PRACTICE OF MORTUARY
11 1 SCIENCE.

11 2 This chapter shall not be construed to authorize the
11 3 unlicensed practice of mortuary science as provided in chapter
11 4 156.

11 5 Sec. 13. APPLICABILITY DATES.

11 6 1. This Act applies to all declarations executed on or
11 7 after the effective date of this Act.

11 8 2. The section of this Act enacting section 144C.6 applies
11 9 to all deaths occurring on or after the effective date of this
11 10 Act, except that section 144C.6, subsection 1, paragraph "a",
11 11 applies only to a designee designated in a declaration that is
11 12 executed on or after the effective date of this Act.

11 13 EXPLANATION

11 14 This bill creates new Code chapter 144C, entitled the
11 15 "Final Disposition Directives Act". The bill allows a
11 16 competent adult, that is, a person who is married or who is 18
11 17 years of age or older, to execute a written instrument called
11 18 a declaration which expresses the wishes of the person
11 19 concerning the final disposition of that person's remains and
11 20 the ceremonies to be performed after that person's death and
11 21 designates who should oversee those matters.

11 22 The bill provides that it shall not be construed to do any
11 23 of the following: supersede duties of the department of
11 24 public health related to a public disaster contained in Code
11 25 section 135.144; invalidate a declaration or will, codicil,
11 26 trust, power of appointment, or power of attorney, subject to
11 27 the provisions of the bill contained in Code section 144C.4,

11 28 subsection 3, that prohibit a funeral director, funeral
11 29 establishment, cremation establishment, cemetery, elder group
11 30 home, assisted living program facility, adult day services
11 31 program, licensed hospice program, or attorney, or any agent,
11 32 owner, or employee of such an entity, from serving as a
11 33 designee unless related to the declarant within the third
11 34 degree of consanguinity; invalidate any act of an agent,
11 35 guardian, or conservator; affect any claim, right, or remedy
12 1 that accrued prior to the effective date of the bill,
12 2 authorize or encourage acts that violate the constitution,
12 3 statutes, rules, case law, or public policy of Iowa or the
12 4 United States; abridge contracts; modify the standards,
12 5 ethics, or protocols of the practice of medicine or mortuary
12 6 science; compel or authorize a health care provider, health
12 7 care facility, hospital, elder group home, assisted living
12 8 program facility, adult day care services program, or licensed
12 9 hospice program to administer medical treatment that is
12 10 medically inappropriate or contrary to laws of Iowa or the
12 11 United States; or permit or authorize euthanasia or an
12 12 affirmative or deliberate act to end a person's life.

12 13 The bill allows a third party to rely upon the directives
12 14 of a person who represents that the person is a member of a
12 15 class of persons set forth in the order of priority contained
12 16 in the bill if that person signs an affidavit stating that the
12 17 person has received the assent of a majority of all members of
12 18 the class, whose whereabouts are reasonably ascertainable, to
12 19 control final disposition of the decedent's remains and to
12 20 make arrangements for the performance of a ceremony for the
12 21 decedent.

12 22 The bill requires a declaration to name a designee and
12 23 allows a declaration to direct what final disposition should
12 24 be made of the declarant's remains and what ceremony should be
12 25 performed after the declarant's death. The bill prohibits a
12 26 funeral director, funeral establishment, cremation
12 27 establishment, cemetery, elder group home, assisted living
12 28 program facility, adult day services program, licensed hospice
12 29 program, or attorney, or any agent, owner, or employee of any
12 30 such entity, from serving as a designee under a declaration
12 31 unless related to the declarant within the third degree of
12 32 consanguinity. The bill requires a designee or third party to
12 33 act in good faith to fulfill the directives of a declaration
12 34 in a manner that is reasonable under the circumstances.

12 35 The bill provides some immunity from civil or criminal
13 1 liability or professional disciplinary action for a designee
13 2 or a third party, such as a funeral director, funeral
13 3 establishment, cremation establishment, or cemetery, acting in
13 4 good faith reliance on a declaration. The bill provides that
13 5 its provisions shall not be construed to impair any
13 6 contractual obligations of a designee or third party incurred
13 7 in fulfillment of a declaration.

13 8 The bill sets forth an order of priority for determining
13 9 who has the right to control final disposition of a deceased
13 10 person's remains or to make arrangements for a ceremony after
13 11 a person's death. A designee acting pursuant to a declaration
13 12 has the highest priority, or if there is no designee, then the
13 13 surviving spouse and other relatives of the deceased person
13 14 whose whereabouts are reasonably ascertainable, a person who
13 15 knows the declarant, or the county or state medical examiner.

13 16 The bill allows a third party to await a court order before
13 17 proceeding with final disposition of the body or ceremony
13 18 arrangements in the event of a dispute among family members or
13 19 between family members and the executor of the decedent's will
13 20 or a personal representative appointed by the court. The bill
13 21 also allows a designee to implement a declaration contained in
13 22 a will immediately without probate.

13 23 The bill contains a suggested, but not mandatory, written
13 24 form for a declaration. A declaration must be in writing and
13 25 substantially comply with the form contained in the bill, be
13 26 properly completed, and be signed by the person making the
13 27 declaration, or another person acting on the declarant's
13 28 behalf at the direction of and in the presence of the
13 29 declarant.

13 30 The declaration must also either be signed by at least two
13 31 individuals who are not named in the document who, in the
13 32 presence of each other and the declarant, witness the signing
13 33 of the declaration by the declarant, or a person acting on the
13 34 declarant's behalf at the direction of and in the presence of
13 35 the declarant, and who witness the signing of the declaration
14 1 by each other, or be acknowledged before a notarial officer.

14 2 The bill suggests specific directives that may be included
14 3 in a declaration such as special instructions conveying the

14 4 person's wishes concerning the type and location of the final
14 5 disposition and ceremonies, designation of alternate designees
14 6 and contact information for all designees, and instructions
14 7 for distribution of copies of the declaration.
14 8 The bill provides for forfeiture of a designee's rights and
14 9 authority under a declaration if the designee is charged with
14 10 murder in the first or second degree or voluntary manslaughter
14 11 of the deceased person, or if the designee's rights and
14 12 authority under the declaration are not exercised within two
14 13 days of receiving notification of the death of the declarant
14 14 or within five days of the declarant's death, whichever is
14 15 earlier.
14 16 The bill provides a presumption that a declaration executed
14 17 pursuant to the new Code chapter is intended to have full
14 18 force and effect throughout the United States, the District of
14 19 Columbia, and its territorial possessions and gives effect to
14 20 declarations or similar instruments executed in other states
14 21 that comply with the requirements of the new Code chapter.
14 22 The bill gives a designee the sole discretion to determine
14 23 what is "reasonable under the circumstances" by considering
14 24 what is appropriate in relation to the declarant's finances,
14 25 cultural or family customs, and religious or spiritual
14 26 beliefs, including consideration of any preneed funeral,
14 27 burial, or cremation plan, or creditors of the declarant in
14 28 implementing the provisions of a declaration.
14 29 The bill provides that the provisions of the most recent
14 30 declaration of a declarant control over any other document
14 31 concerning final disposition of that person's body or the
14 32 ceremonies to be performed after that person's death.
14 33 The bill provides that the new Code chapter applies to a
14 34 declaration executed or exercised in Iowa and to a declaration
14 35 executed or exercised by a person who is a resident of Iowa
15 1 when the instrument is executed or exercised.
15 2 The bill does not prohibit an "interested person", defined
15 3 as a declarant's spouse, parent, grandparent, adult child,
15 4 adult sibling, adult grandchild, or a designee, from viewing a
15 5 declarant in private at the interested person's expense, to
15 6 assist in the bereavement process, unless such a viewing is
15 7 specifically prohibited in the declaration.
15 8 The bill does not prohibit a person from conducting a
15 9 separate ceremony to commemorate a declarant, at the person's
15 10 expense, to assist in the bereavement process.
15 11 The bill provides that the rights of a donee created by an
15 12 anatomical gift pursuant to Code section 142C.11 are superior
15 13 to the authority of a designee pursuant to a declaration.
15 14 The bill applies to all declarations executed on or after
15 15 the effective date of the bill. New Code section 144C.6,
15 16 which sets forth an order of priority for determining who has
15 17 the right to control final disposition and ceremonies for a
15 18 decedent, applies to all deaths occurring on or after the
15 19 effective date of the bill, except that Code section 144C.6,
15 20 subsection 1, paragraph "a", giving highest priority to a
15 21 designee in a declaration, applies only to a designee
15 22 designated in a declaration executed on or after the effective
15 23 date of the bill.
15 24 The bill provides that its provisions shall not be
15 25 construed to authorize the unlicensed practice of mortuary
15 26 science as provided in Code chapter 156.
15 27 LSB 1038DP 82
15 28 av:rj/sh/8